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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 1 April 1998, at 10 a.m.

Chairman: Mr. SELEBI (South Africa)

later: M. GALLEGOS CHIRIBOGA (Ecuador)
(Vice-Chairman)

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(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

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The meeting was called to order at 10 a.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-NINTH SESSION (agenda item 15) (continued) (E/CN.4/1998/2-E/CN.4/Sub.2/1997/50, E/CN.4/1998/86, 87 and Add.1, 88 and 89; E/CN.4/1998/NGO/1; E/CN.4/1997/80; E/CN.4/Sub.2/1997/11)

1. Mr. GARCIA (International Indian Treaty Council) said that his organization supported efforts to create a provision for third-party arbitration and a structure for settling disputes between Governments and those claiming to have suffered discrimination, whether in the past or in the present. Indigenous peoples needed access to a truly independent forum in order to address issues such as land rights and reparations for past abuses. He reiterated the call for a follow-up visit and report by the Special Rapporteur on religious intolerance in connection with the situation of religious discrimination currently at issue in the United States of America at Big Mountain, Arizona. His organization supported efforts to establish readily comprehensible standards relating to discrimination and persons suffering from discrimination and, to that end, supported proposals for the provision of legal and technical assistance to Governments with a view to ensuring that both Governments and human rights monitors were properly trained and that the standards in question were adequately enforced.

2. Ms. NORDSTRÖM (World Blind Union), speaking also on behalf of the World Federation of the Deaf and several other associations representing disabled persons throughout the world, said that the Commission on Human Rights should request the Special Rapporteur on disability of the Commission for Social Development to compile a report on violations of the human rights of persons with disabilities, with special focus on the problems of women and children with disabilities, and to transmit it upon completion to the High Commissioner for Human Rights.

3. The Commission on Human Rights should then take the initiative of convening a conference to discuss the report's findings. She further proposed that the Commission should develop strategies in connection with human rights issues relating to persons with disabilities and, in particular, should look into ways of involving non-governmental organizations (NGOs) active in the field of disabilities more directly in its future work. All Member States should ensure through legislation that disability was recognized as a human rights issue. Persons with disabilities had to be offered equal opportunities in all spheres of life.

4. Mr. WAHLSTROM (Inclusion International) said that the Commission should do more to bring its decisions relating to persons with disabilities to the attention of the NGOs active in that field. His own organization was cooperating in the preparation of a report on violations of the human rights of disabled persons, especially those with mental handicaps, which it hoped to transmit to the Secretary-General in the summer of 1998. Part 2 of the report would contain examples of good practice from countries in various parts of the world. The efforts being made in South Africa and Romania to redress the appalling situation of disabled people, particularly children, deserved special commendation.

5. He appealed to the members of the Commission to respond positively to the Economic and Social Council resolution on equalization of opportunities

for persons with disabilities, to make contributions to the United Nations Voluntary Fund on Disability and to support the recommendations of the Special Rapporteur on disability, especially that regarding a distinct disability component in all the monitoring activities of United Nations human rights entities.

6. Mr. SIMAS MARGALHAES (Brazil) said that the Sub-Commission, which had originally been established to provide the Commission with the necessary technical expertise, should make every effort to avoid politicization and duplication of the work of the Commission itself. Its decision, as reported by its Chairman, to take no action on human rights situations that were normally considered under the Commission's agenda was therefore very welcome.

7. His delegation also supported the Sub-Commission's efforts to rationalize its work. Many items, of both a procedural and a substantive nature, could be grouped together without loss of quality as the Commission's own practice demonstrated. The Sub-Commission should also strengthen still further its links with human rights NGOs, which could provide it with valuable information on the situation of human rights in all parts of the world. His Government stood ready to cooperate with the Sub-Commission by supplying all necessary information to its working groups and in connection with its reports and studies.

8. Mr. LIU Xinsheng (China) said he noted that the Sub-Commission had taken a number of positive steps in response to Commission resolution 1997/22 and expressed the hope that further practical measures to improve its working methods would be proposed at its next session. He noted with concern, however, that the consideration of country resolutions was still taking up a great deal of the Sub-Commission's time and he urged all its members to adopt a prudent, objective and responsible position in that regard so as to limit the random and selective nature of the exercise.

9. His delegation had reservations with regard to the Sub-Commission's request for authorization to hold five-week sessions in the next three years (resolution 1997/17) since it believed that, instead of enhancing the Sub-Commission's efficiency, such a step would merely add to the logistic and financial burden upon the United Nations. The Sub-Commission should concentrate rather on making full use of the meeting time currently available to it and should explore further ways of improving its efficiency. Provided that it proceeded from current international realities and focused its attention on major human rights issues of general concern to Member States, particularly those connected with economic, social and cultural rights, the Sub-Commission would continue to fulfil its irreplaceable role as the Commission's brains trust.

10. Mr. ZAKI (Pakistan), said that, in the 50 years of its existence, the Sub-Commission had become over-extended to the point of no longer being able to concentrate on its primary task of serving as the Commission's think tank. His delegation agreed with the view expressed in Sub-Commission resolution 1997/17 that the time available to it did not permit an in-depth review and analysis of all the documentation and initiatives submitted for its consideration. It thus supported efforts to rationalize the Sub-Commission's agenda. The reduction of the number of agenda items from 23 to 14 and the biennialization of certain sub-items had already helped to streamline the work

of the 1997 session, and yet more time could be gained by further prioritization of issues, more concise documentation and strict enforcement of the speaking time limits.

11. As for the Sub-Commission's methods of work, his delegation took the view that it was performing satisfactorily the tasks entrusted to it under Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII). Any improvements in the confidential procedure would have to come through a review of those resolutions. It appreciated the emphasis the Sub-Commission was placing on economic and social rights, welcomed the completion of two studies under that heading, and thought that the Sub-Commission could be entrusted with additional functions in the context of the implementation of the right to development.

12. It looked forward to the completion of the ongoing studies and of the working paper being prepared on article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination. While the initial paper presented by the Special Rapporteur on human rights and terrorism was useful, he thought that greater attention should be paid to the phenomenon of State terrorism and the use of terrorism as an instrument of foreign occupation. In addition, a greater effort should be made to establish a distinction between terrorist groups and national liberation movements.

13. The Sub-Commission should also devote special attention to the denial of the right to self-determination of peoples under foreign domination or occupation. Suppression of that right was the root cause of many situations of the most systematic and serious violations of human rights, of which Palestine, Kosovo and Kashmir were examples.

14. His delegation entirely supported the Sub-Commission's role in providing an opportunity for NGOs to participate in United Nations human rights work, and considered that the Commission could benefit from some of the procedures adopted by the Sub-Commission in that regard. In conclusion, he agreed with the Chairman of the Sub-Commission that its working groups were the strongest pillars of its work (E/CN.4/1998/88, para. 13), adding that the question as to how the discussions and outcomes of those working groups should relate to the work of the Sub-Commission in plenary could, perhaps, be answered by pointing to the manner in which the Sub-Commission's work was considered by the Commission itself.

15. Mr. SEMASHKO (Ukraine) said that the Sub-Commission should take care not to overload its agenda and should avoid duplication of work and waste of resources. It was noteworthy that only one of the 10 draft decisions recommended for adoption by the Commission fell within the scope of the Sub-Commission's original mandate. Questions relating to the illicit transfer of arms or the injurious effects of anti-personnel landmines were being considered by other United Nations bodies and did not require Sub-Commission attention. The Sub-Commission was undertaking an excessive number of studies, some of the proposed studies could be carried out by the Secretariat without the appointment of a special rapporteur, certain studies stayed on the Sub-Commission's agenda for year after year while others remained blocked, and many of the studies that had already been completed were not adequately publicized.

16. So far as methods of work were concerned, he noted with satisfaction the Sub-Commission's adoption of a greatly shortened agenda for its forty-ninth session. The decision to take no action in future on human rights situations already under consideration in the Commission's public procedures was particularly welcome, as was the fact that the Sub-Commission had adopted only three resolutions under the agenda item concerning the violation of human rights in all countries, had rejected three draft resolutions under that item and had decided to take no action on two further draft resolutions relating to the human rights situation in specific countries.

17. Mr. NZIKOU (Congo) said that the Sub-Commission had adopted its resolution 1997/1 when civil war had been in progress in his country. Since the end of the war, on 15 October 1997, the situation had improved considerably. The new Government had taken steps to ensure the return of displaced people; the free circulation of people and goods; the re-establishment of peace and security, through the reorganization of the police, the dissolution of private militias and an arms-collection campaign; the restoration of economic and social activity, particularly the reopening of hospitals and educational establishments; the restoration of legal action on individual rights and freedoms; and the establishment of transitional institutions to create the proper conditions for general elections.

18. While reiterating its appeal for technical assistance on human rights, his Government requested, therefore, that the Sub-Commission withdraw its recommendation that the Commission should consider the situation of human rights in the Congo at its current session.

19. Mr. PADILLA (Guatemala) said that his country was a multi-ethnic and multicultural society, as reflected in the democratization process, the peace negotiations concluded on 29 December 1996 and the subsequent Agreement on the Identity and Rights of Indigenous Peoples. Its experiences had led it to understand the crucial importance of the Commission, at a time when most conflicts arose as a result of discrimination against ethnic minorities within States. The ideological confrontations of the cold war had been replaced by confrontation based on cultural, religious or ethnic diversity.

20. That being so, the question arose as to what the Sub-Commission's function should be. In the first place, it must establish an order of priorities. It should work closely with other United Nations bodies on early-warning procedures. It should then work for the establishment of effective prevention mechanisms. The task was not an easy one, but there was much expertise to draw on. Cooperation could also be sought with international academic bodies specializing in research on peace.

21. Advisory services for countries like his own which had not yet overcome all the problems associated with their past were greatly enhanced by reports such as those on impunity and on terrorism, human rights and humanitarian law. In that context, his delegation agreed that, while States had a duty to respect fundamental freedoms and individual integrity, they also had an obligation to protect individuals from attacks by other individuals or groups, such as terrorists. It would be useful to have a statement of minimum humanitarian standards, to counteract the difficulties arising in the implementation of the Geneva Conventions.

22. Ms. CALLANGAN (Philippines) said that the Sub-Commission had contributed much to the cause of human rights, but it could still benefit from further reform and rationalization. There was a particular need to focus on its primary role as an advisory body of the Commission, to facilitate the effective participation of NGOs and to improve consultations with the various mechanisms of the Commission and other human rights bodies.

23. The gravity and urgency of the problem of trafficking in women and children, particularly for sexual purposes, was such that her delegation would again submit a draft resolution on the issue, stressing the need to eliminate all forms of sexual violence and trafficking through the adoption of effective measures at the national, regional and international levels. Concerted action, with cooperation and political will on all sides, was required. As a recent conference sponsored by her Government had concluded, the follow-up mechanisms to the Declaration and Agenda for Action of the World Congress against Commercial Sexual Exploitation of Children needed to be strengthened and the relevant special rapporteurs and working group should continue to treat the issue as a priority.

24. Ms. AUSTAD (Observer for Norway), speaking on behalf of the Nordic countries, said that the most serious violations of human rights - and the most difficult to redress - tended to occur during internal conflict. The Secretary-General's analytical report (E/CN.4/1998/87 and Add.1) made a useful contribution to identifying fundamental standards and setting out proposals.

25. Acts by private individuals were seen as crimes punishable under national law rather than human rights violations. While armed groups were bound by the provisions of international humanitarian law, there was a problem concerning the adequacy of human rights law with regard to the activities of non-State actors, particularly when a Government was not in control of the whole of its territory. Where there was a quasi-governmental authority in part of a territory, it should be held responsible for applying human rights standards in that territory but, given the divergent views on the issue and its complexity, further study was needed.

26. Derogation and other issues discussed in the report also required further analysis and consultation. The Nordic countries intended therefore to submit a draft resolution requesting the Secretary-General to continue studying the issues identified for further clarification, in consultation with the International Committee of the Red Cross (ICRC), given the relevance of international humanitarian law in that regard.

27. Mr. VIGNY (Observer for Switzerland) said that international protection for the most fundamental human rights was sometimes inadequate, particularly when countries were in crisis. The elaboration of minimum humanitarian standards should redress the situation, particularly if they applied to all parties, including not only State authorities but also non-State armed or unarmed groups, individuals and international organizations. His delegation thus welcomed the Secretary-General's analytical report (E/CN.4/1998/87), to which Switzerland had contributed, and supported, of course, the recommendations it contained. A particularly appropriate recommendation was that the views of Governments and other relevant actors should be requested. Such consultations should include a request for written information from all the parties concerned and there should also be informal meetings between Governments, United Nations bodies, intergovernmental bodies, the ICRC and

others, which would extend the international community's awareness of the issue. An informal seminar under the aegis of the Commission might also be useful.

28. Mr. JEANNET (Observer for the International Committee of the Red Cross (ICRC)) said that, while the Secretary-General's analytical report (E/CN.4/1998/87) was a welcome contribution, further study was required, particularly on the content, scope and status of any minimum humanitarian standards and on the circumstances in which they would be used. At the same time the distinction should be maintained between international human rights law and international humanitarian law. They were currently complementary, thus providing a better protection for fundamental rights, and any confusion of the two - in relation to the use of armed force, for example - would be regrettable. As the report stated, therefore, the international community should proceed with caution and bear in mind that a listing of minimum humanitarian standards did not necessarily amount to a standard-setting exercise.

29. It would also be useful to undertake a more systematic study of actual situations of violence in order to achieve a better understanding of the factors governing violations and the problems involved in implementing existing standards and thus of what would be required in practice. As the report noted (para. 87), ICRC was currently engaged in a study of the rules of customary international law, which would be helpful in determining the final form of the minimum humanitarian standards.

30. The report of the Special Rapporteur on the question of the impunity of perpetrators of human rights violations (civil and political) (E/CN.4/Sub.2/1997/20) was an admirable one. It should, however, be pointed out that impunity was a problem in peacetime as well as during armed conflict, on which the Special Rapporteur had concentrated his attention. ICRC believed that consideration should be given to a broader application of international humanitarian law to impunity, as was already the case with the basic principles and guidelines on the right to reparation for victims of human rights violations. The issue could be considered by a group of experts, in which ICRC would gladly participate.

31. Lastly, he hoped that States would shortly demonstrate the political will to move rapidly towards the establishment of a permanent international criminal court which would be complementary to national jurisdictions and able to prosecute people suspected of war crimes, whether in international or internal armed conflicts. It would undoubtedly have a deterrent effect, issuing a warning to those responsible for international crimes and a message of hope for their victims.

32. Ms. GARCIA-MORENO (World Health Organization) said that WHO wished to extend its participation in the area of women's health in the Sub-Commission to the question of safe motherhood, one of many important aspects of women's health. Half a million women or more died every year from the complications of pregnancy and childbirth, the majority in Asia and sub-Saharan Africa, and 50 million more suffered from ill health and disabilities from the same causes. Maternal mortality showed the widest discrepancy between developing and developed countries, and within developing countries there were significant dispartities between urban and rural areas; yet almost all those deaths could be prevented at a relatively low cost. WHO estimated that basic

maternal care, including skilled attendants, prevention and treatment of complications, family planning and basic neonatal care would cost about US$ 3 per person in low-income countries. Less than half the women in the world had access to such essential care. Communities, health centres and hospitals should be linked, in order to provide care when and where women needed it most.

33. The situation ran counter to the guarantees contained in the Convention on the Elimination of All Forms of Discrimination against Women. Moreover, when a woman died from pregnancy-related causes, it was not only a preventable individual tragedy but a social and economic loss to families and communities. There was a need for significant change in the way maternal health care was provided and in the priorities of Governments, agencies and NGOs, with the establishment of a proper legal policy and regulatory framework. The political will, the necessary resources and strong concerted action were required. WHO requested the Commission to recommend to the Sub-Commission that, together with WHO, it should prepare a report on women's reproductive health to draw attention to the need for action on the matter.

34. Ms. SPALDING (World Federation for Mental Health) said that Commission decision 1997/107 had been the answer to her plea to build bridges with the Commission for Social Development. The substantive link between the two Commissions was indeed coming about and she urged that a joint rapporteur be assigned to the two Commissions under a combined, streamlined budget for mutually mandated work. Such an appointment, together with the establishment of an ombudsman, would facilitate the accountability and measurable implementation of standards within the United Nations system.

35. Ms. BAUTISTA (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that impunity for crimes against humanity was the crime of the century and the biggest obstacle for countries in transition, since it made it impossible to build a truly democratic society. The issue was still very much alive in Argentina, Uruguay, Chile, Brazil, Guatemala and Peru, all of which had introduced impunity laws, of varying degrees. Investigations had not been reopened; and decrees promulgated by dictators had been handed on to the successor democracies. Similar problems of impunity were encountered in Mexico and Colombia. It was essential therefore that the Commission should adopt urgently a set of principles to protect and promote human rights by combating impunity.

36. Mr. NARANG (European Union of Public Relations) said that there were two opposing trends in contemporary society: globalization in the name of higher economic growth and justice for all and the assertion of diversity and dignity. Economic development and social transformation had, contrary to expectations, increased rather than diminished the intensity of ethnic and regional consciousness, a consciousness that, in many cases, related to questions of political autonomy and self-determination. Another aspect of that conflict was the compatibility of group rights with individual rights. Respect for cultural identity could imply a violation of universal human rights and measures to guarantee minority rights had produced a backlash that damaged relations with the majority.

37. One of the challenges facing the human rights community in coming years was thus the need to define processes to mitigate ethnic conflicts and begin a constructive dialogue. That could best be accomplished by a body of experts

acting with objectivity and a commitment to the human rights of all, a role which the Working Group on Minorities had begun to fill and should be encouraged to continue.

38. Mr. NAQVI (World Muslim Congress) recalled a statement made by one of the members of the Sub-Commission at its forty-ninth session when introducing a draft resolution on the human rights situation in India. That statement had listed a vast number of human rights abuses and cases of discrimination, which he quoted at some length. That draft resolution and the facts supporting it were an indictment of the human rights situation in the so-called "largest democracy in the world". Members of the Commission should be aware of that situation and do everything in their power to put an end to those systematic violations of human rights by India.

39. Mr. BENGOA (Chairman of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities) said that, he had noted four main areas of response to the work of the Sub-Commission. First, he had been encouraged that the rationalization of its work was proceeding in the right direction and should continue. Next, various speakers had referred to the functions and mandate of the Sub-Commission and had raised some challenges that would give rise to discussion at its next session. The importance of the relationship between the Sub-Commission and NGOs had also been highlighted, together with the need for increased participation of the sectors of civil society which they represented. He had taken note of the suggestion that the Sub-Commission should appoint a special rapporteur for economic, social and cultural rights. Much interest had also been expressed in the studies, and he asked the Commission to inform the Sub-Commission of the topics for further studies that it considered useful.

40. Mr. LINDQUIST (Special Rapporteur on disability of the Commission for Social Development) said that he welcomed the increased visibility given to disability at the current session and the increased presence of NGOs for the disabled. From the general debate, he had noted the close link between the situation of disabled people and the protection of human rights and the undeniable link between poverty and disability. There was clearly a need for a deeper understanding of the topic, and he would do what he could to promote the human rights dimension of disability in the effort to move towards a society of inclusion.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 8) (E/CN.4/1998/5, 32-35, 36/Rev.1, 37 and Add.1, 38 and Add.1 and 2, 39 and Add.1 and Add.3-5, 40 and Add.1 and 2, 41-43, 44 and Add.1 and 2, 111, 129 and 139; E/CN.4/1998/NGO/82; A/52/387)

41. Mr. TOSEVSKI (Chairman/Rapporteur of the Working Group on Enforced or Involuntary Disappearances), introducing the Working Group's report (E/CN.4/1998/43), said that he wished to highlight two issues of major concern: the question of compensation and the worsening conditions under which the Working Group was obliged to function within the United Nations Secretariat.

42. Since its establishment in 1980, the Working Group had transmitted over 47,000 cases of alleged disappearances to 76 countries. Only some 2,800 of them had been clarified and, though every case clarified must be seen as a success, the almost 45,000 cases outstanding was not encouraging. Although many of the unresolved cases dated to the 1970s or early 1980s and most of the victims were probably long since dead, the Working Group required that the exact fate and whereabouts of the victim be established beyond reasonable doubt in order to clarify a case.

43. Brazil had adopted a new approach, namely, a law that recognized as dead persons missing in connection with their political activities during the period 1961 to 1979 and thus allowed their relatives to obtain death certificates and to receive compensation from the State. Application of that law had led to the clarification of 49 out of 56 outstanding cases. Another method of clarifying old cases was the exhumation and identification of remains from mass graves and other places of clandestine burial. That method had allowed the Government of Chile to identify 231 persons who had been killed more than 20 years previously.

44. The Working Group recommended that all States with a considerable number of outstanding cases should develop a comprehensive programme of forensic activities and should compensate the families of deceased victims of enforced disappearances.

45. The Working Group was seriously concerned at the current situation of its secretariat and the prospects for the near future. Its working methods were labour-intensive and required confidentiality, extensive support, interest in the subject matter and consistent legal expertise from the Secretariat. In the past, a small team of human rights officers and secretarial staff had been assigned exclusively to the Working Group but, during the past five years, the tasks had been distributed among staff members servicing other thematic mandates or even field missions. As a result, those staff members could handle only about 65 per cent of the Group's total workload, thus greatly hampering its dialogue with Governments and NGOs.

46. A recent internal redistribution of tasks in the Office of the High Commissioner had made the situation still worse and the credibility of the Working Group was declining and its activities becoming marginalized.

Unless decisive action was taken, the achievements and impact of the Working Group since 1980 would be dissipated irretrievably and it looked to the Commission to take such action.

47. Mr. ALVAREZ (Observer for Costa Rica), referring to the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, said that the Working Group to prepare that instrument had met five times since its establishment in 1992, and had made major progress at its latest session. The draft optional protocol was intended to establish a preventive mechanism based on cooperation, confidentiality, independence, impartiality and universality. It would not undertake the consideration of individual cases but would evaluate the prevailing conditions in places of detention and make recommendations to improve practices.

48. His delegation believed that it was essential to establish a financial mechanism to provide funding for the technical cooperation needed to carry out such operations and it supported the proposal to establish a voluntary fund for the purpose. It was of the utmost importance that the mechanism should enter into force and the mandate of the Working Group should thus be extended so that it could work out the remaining difficulties and be in a position to submit to the Commission a final text ready for signature.

49. Ms. BARNES de CARLOTTO (International Movement for Fraternal Union Among Races and Peoples), speaking as President of the Association of the Grandmothers of the Plaza de Mayo, said that justice for the 30,000 individuals detained and disappeared during the military dictatorship in Argentina had still not been achieved. The impunity laws passed by the Government violated the many international human rights instruments to which Argentina was a party, since States were currently obliged to harmonize their domestic law with international law and actions such as genocide, torture and enforced disappearances had thus to be considered as crimes against humanity under domestic law.

50. For 20 years, the Grandmothers of the Plaza de Mayo had dedicated their lives to restoring to their stolen grandchildren their rights and especially their identity. Although the impunity laws excluded pardon for those who had abducted children, it was unjust that, when located, those children should be told to forget about their parents.

51. Ms. LACROIX (World Organization against Torture) said that, although freedom from torture was a non-derogable right explicitly affirmed in several international human rights instruments, it continued to occur on a daily basis in many parts of the world. Corporal punishment imposed for criminal offences in the Islamic Republic of Iran constituted torture and contravened international law, as did the "moderate physical pressure" during interrogation authorized by the Government and Supreme Court of Israel. Impunity for acts of torture was a major problem, and she mentioned the glaring examples of Mexico and Peru. The only solution was the full, universal and prompt ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

52. Ms. DOWD (International Pen) said she wished to draw the Commission's attention to a widespread pattern of violation of the right to freedom of expression in the name of national security. Legislation allegedly aimed at

protecting State sovereignty was all too often used to stifle the peaceful expression of views in general and by journalists in particular. In the end, such action exacerbated difficult situations, increased misunderstanding and further destabilized the State. While her organization welcomed some recent encouraging developments in that regard in Turkey, Peru and the Republic of Korea, the legislation in each of those countries still needed to be re-evaluated so that its scope to proscribe free expression might be eliminated.

53. Mr. Gallegos Chiriboga (Ecuador), Vice-Chairman, took the Chair.

54. Mr. TEITELBAUM (American Association of Jurists) said that, in its written statement (E/CN.4/1998/NGO/20), which was unfortunately available in Spanish only, his organization had expressed a generally positive view of the draft set of principles for action to combat impunity (E/CN.4/Sub.2/1997/20) but had highlighted some important omissions and deficiencies and had submitted proposals to remedy them. Impunity was still, alas, the dominant note with regard to human rights violations, and he mentioned cases in Brazil, Chile and Colombia.

55. A number of Argentine soldiers who had taken part in the Falkland Islands (Malvinas) war in 1982 were still missing, and their relatives had been unable to obtain information concerning their fate. He appealed to the Governments of Argentina and the United Kingdom to assist the Working Group on Enforced or Involuntary Disappearances to clarify those cases.

56. Mr. MENDEL (Article XIX: the International Centre against Censorship), having welcomed the report of the Special Rapporteur on freedom of opinion and expression (E/CN.4/1998/40), said that his organization wished to emphasize the right of citizens to information held by the State and the duty of broadcasters funded by States, to ensure that issues of public interest were reported in a balanced and fair manner.

57. While the use of new information technologies to disseminate racist and sexist views, and pornography, was very troubling, the tendency of Governments to regulate and control access thereto was even more so. His organization fully agreed with the Special Rapporteur's recommendation that no measures be adopted going beyond the restrictions on freedom of expression and information permitted under international law.

58. Criminal defamation laws were unnecessary to protect reputations or public order which, in most countries, were adequately protected by civil defamation and general public order laws. While democratic societies were increasingly accepting the principle that public figures must tolerate a greater degree of criticism than private citizens, criminal defamation laws in many countries afforded special protection to senior political figures and were used to punish or stifle legitimate criticism and dissent. In view of the difficult questions raised by such laws, his organization urged the Special Rapporteur to include in his next report a commentary on both criminal and civil defamation actions and their effects on the right to freedom of opinion, expression and information.

59. Mr. ÖZDEN (Centre Europe-Tiers Monde) called on the Government of Tunisia to release immediately and restore his rights to the Vice-President of

the Tunisian League for Human Rights, Mr. Khémaïs Ksila, who had been given a heavy prison sentence on 11 February 1998 for defamation against public order and constituted bodies, disseminating false information to disturb public order, and inciting citizens to break the laws of the country. The charges related to a statement, which had not been published, denouncing the harassment of himself and his family and expressing his opinion about the human rights situation in Tunisia.

60. The former president of the Council of State of Geneva, who had attended Mr. Ksila's trial as an observer, reported, after analysing the charges in detail, that they did not hold water and that the trial had shown that Tunisia did not respect the fundamental principles of human rights, especially those contained in the Universal Declaration of Human Rights.

61. Mr. ROMO (Franciscans International) said that torture was still part and parcel of the administration of justice in many countries. In Mexico, for example, the practice of torture to secure confessions or information was increasing and went hand in hand with the selective application of justice for political cases, which led to a high degree of impunity. The corruption of the justice system produced a lack of trust so that people took the law into their own hands. His organization thus endorsed the recommendations contained in the report on his visit to Mexico (E/CN.4/1998/38/Add.2) of the Special Rapporteur on questions relating to torture.

62. In Colombia, one of the main factors in human rights violations was the justice system itself, there being a general presumption of guilt. Prisons in that country were appallingly overcrowded and did nothing for the rehabilitation of convicts. Criminal procedures permitted pre-trial detention in most cases, which could be extended for up to two years. Some 45 per cent of the country's prison population was awaiting trial. Although various United Nations bodies had made recommendations to the Government of Colombia, it had not so far taken the necessary measures. The report of the 1996 visit to Colombia by the Special Rapporteur on the independence of judges and lawyers had still not been published. Consequently, the Commission should urge the Government of Colombia to implement immediately the recommendations that had been made for the improvement of the justice system and request the Office of the High Commissioner to keep a close eye on the situation there and to publish immediately the Special Rapporteur's report on his visit.

63. Ms. GUILLET (International Federation of Human Rights Leagues) said that her organization and its affiliate, the Mauritanian Association for Human Rights (AMDH), appealed to the Commission to condemn such serious attacks on human rights defenders as the trial and sentencing of four of them in Mauritania. The presidential pardon which had freed them a few days previously was to be welcomed, but it did not erase their iniquitous sentencing after a parody of a trial.

64. Her organization and its affiliate, the Belarus Human Rights League, were very satisfied with the report on his visit to Belarus by the Special Rapporteur on freedom of opinion and expression (E/CN.4/1998/40/Add.1) and appealed to the Belarusian authorities to implement the Special Rapporteur's recommendations as soon as possible. The Commission should continue to monitor the situation in Belarus.

65. Her organization and its affiliate, the Viet Nam Committee for the Defence of Human Rights, reiterated their concerns regarding the deliberate stifling of freedom of opinion and expression in the Socialist Republic of Viet Nam and requested the Commission to do its utmost to ensure that the follow-up visit by the Working Group on Arbitrary Detention would take place during the current year.

66. Her organization and its Northern Ireland affiliate, the Committee for the Administration of Justice, welcomed the report of the Special Rapporteur on the independence of judges and lawyers on his visit to the province (E/CN.4/1998/39/Add.4) and called on the Government of the United Kingdom to respond rapidly to his recommendations and, in particular, to establish an independent judicial inquiry into the murder of the well-known lawyer, Mr. Patrick Finucane.

67. Her organization and its various Peruvian affiliates welcomed the abolition of the so-called "faceless" tribunals and the first releases of innocent prisoners, but were concerned at the worsening human rights situation in other respects in Peru and called upon the Commission to continue to follow closely the human rights situation in that country.

68. Ms. PARES (Pax Romana) said there were still far too many places in which arbitrary detention and illicit methods of obtaining information were employed on a daily basis by forces supposed to be upholding order and justice. Her organization shared the concern expressed by the Special Rapporteur on questions related to torture in the report on his visit to Mexico (E/CN.4/1998/38). In East Timor, the Indonesian authorities continued to disregard and violate international standards, despite Commission resolution 1997/63.

69. In the Republic of Korea, a human rights defender had recently been prosecuted on the basis of the National Security Law, whose repeal had been recommended by the Human Rights Committee. The 1996 recommendation by the Committee against Torture to the Government of the Republic of Korea that an independent body should inspect detention centres and prisons had not yet been complied with.

70. A new policy in Peru of building prisons in unsuitable locations was causing grave concern. In the case of one prison, the Human Rights Committee had concluded that conditions there violated several articles of the International Covenant on Civil and Political Rights.

The meeting rose at 1 p.m.